

UNCLASSIFIED

RELEASED IN FULL

GE56

Forced Disappearances Treaty Negotiations September 2005  
Guidance for Closing Statement of the United States

- As the work of the Working Group draws to a close, we express appreciation to the Chair and his team, including the Secretariat, for your enormous dedication, skill, and industriousness during negotiations on a binding instrument to combat this heinous crime.
- We also commend the State delegations, the independent experts, the ICRC, and non-governmental organizations for their commitment, expertise, tireless work, and collegiality throughout, and give special thanks to the families of the disappeared for bearing witness to this terrible scourge.
- At the same time, as we have said before, in order to produce a document that reflects consensus, treaty negotiations should be deliberate, unhurried, and careful, allowing for full expression of views by all representatives.
- All negotiations should additionally be inclusive, allowing full attendance by all delegation members, and transparent, based on a clear draft treaty text which takes account of opposing views.
- Deliberate, participatory and transparent negotiating processes are far more likely to result in a carefully drafted and fully vetted document that represents consensus.
- We regret that the pace of negotiations, among other factors, has resulted in a document that does not reflect consensus of the Working Group.
- Key issues remain disputed, and the United States, for example, continues to have reservations regarding a number of articles or sub-articles including:
  - **RIGHT TO THE TRUTH** - Preamble paragraph 7 and Article 24(2)
  - **DEFINITION** - Article 2
  - **CRIMINALIZATION** - Article 4
  - **CRIME AGAINST HUMANITY** - Article 5
  - **LACK OF DEFENSE OF SUPERIOR ORDERS** - Article 6(2)
  - **STATUTE OF LIMITATIONS** - Article 8
  - **"FOUND IN" JURISDICTION** - Article 9(2)
  - **NON-REFOULEMENT** - Article 16(2) & (3)
  - **ACCESS TO PLACES OF DETENTION** - Article 17, including 17(2) (e) and
  - **NEW TREATY MONITORY BODY** - Article 26 .
- We now look to the work that lies ahead, as states consider proposals before UN bodies for adoption of the instrument for adoption by member states.